

REMARKS

By this Amendment, Applicants have canceled claims 1-5 without prejudice or disclaimer of their subject matter, and added new claims 25 and 26. Accordingly, claims 25 and 26 remain pending and under current examination.

In the Office Action,¹ the Examiner took the following actions:

- (I) rejected claims 1 - 5 on the ground of nonstatutory double patenting;
- (II) rejected claims 1 - 5 under 35 U.S.C. § 112, first paragraph; and
- (III) rejected claims 1 - 5 under 35 U.S.C. § 102(e) as being anticipated by Stebbings (U.S. 6,564,253) ("Stebbings").

Applicants request reconsideration and withdrawal of the rejections for the following reasons.

I. Rejection of claims 1-5 on the ground of nonstatutory double patenting

The nonstatutory double patenting rejection of claims 1-5 has been rendered moot by the cancellation of those claims. Accordingly, Applicants request that the nonstatutory double patenting rejection of claims 1-5 be withdrawn.

II. Rejection of claims 1-5 under 35 U.S.C. § 112, first paragraph

The § 112, first paragraph rejection of claims 1-5 has been rendered moot by the cancellation of those claims. Accordingly, Applicants request that the 35 U.S.C. § 112, first paragraph, rejection of claims 1-5 be withdrawn.

III. Rejection of claims 1-5 under 35 U.S.C. § 102(e)

¹ The Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Office Action.

The § 102(e) rejection of claims 1-5 has been rendered moot by the cancellation of those claims. Accordingly, Applicants request that the 35 U.S.C. § 103(a) rejection of claims 1-5 be withdrawn.

IV. New Independent claims 25 and 26

Applicants have added new independent claim 25 and 26 which include limitations corresponding to limitations of cancelled claims 13 and 14 which were included in elected Group I. Support for new claims 25 and 26 can be found in the specification at, for example, page 13, line 20 to page 14, line 6 and Fig. 5. No new matter has been added.

New independent claim 25 is patentable over Stebbings for the following reasons.

Stebbings discloses that

a primary feature of the flagging system is to prevent Internet access and unauthorized used of any original recording that does not contain an Internet authorization flag...The Internet authorization flagging system also allows control of different kinds of authorized Internet uses that may be made, and is capable of identifying the existence and location of unauthorized Internet use. See Abstract.

Stebbings further discloses that

[t]he process begins at box 100 where an Internet authorization flag is embedded onto a media. At box 101, the media is distributed to an ISP or authorized broker, which loads the media onto its domain web site, as indicated in box 102. Using software capable of detecting data packets containing music, an ISP searches the Internet for music data packets, as at box 103. At box 104, the software determines whether each packet contains an Internet authorization flag. If a flag exists, Internet use is authorized, as at box 108. If a flag does not exist in the music data packet, a determination query is made as to whether specific action is taken, as at box 105. See col. 12, lines 28-39.

While Stebbing appears to disclose using an Internet authorization flag to prevent an unauthorized use of any original recording, Stebbing does **not** disclose, at least, Applicants' claimed game device comprising **"means for transferring** the data from the backup memory to the RAM and **deleting** the data in the backup memory when the game device connects to the communication network," **"means for updating** the data in the RAM depending on a process in the communication game," and **"means for transferring** the updated data from the RAM to the backup memory after the communication game is over," as required by new independent claim 25.

Accordingly, because Stebbing does not disclose each and every element of independent claim 25, Stebbing does not anticipate claim 25. Claim 25 is therefore allowable.

While independent claim 26 is of different scope than claim 25, it recites limitations corresponding to those of claim 25 discussed above. Therefore, independent claim 26 is also allowable over Stebbing for at least the reasons set forth above regarding claim 25.

Conclusion:

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

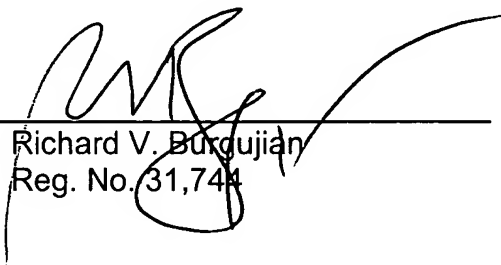
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: March 16, 2007

By: _____


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